

1 Christy D. Joseph (#136785)  
cjoseph@swlaw.com  
2 Nathan W. Hicks (#236269)  
nhicks@swlaw.com  
3 SNELL & WILMER L.L.P.  
600 Anton Boulevard, Suite 1400  
4 Costa Mesa, CA 92626-7689  
Telephone: (714) 427-7000  
5 Facsimile: (714) 427-7799

6 Attorneys for Defendant The University of  
Phoenix, Inc.

UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT OF  
CALIFORNIA

11 CHAD MCKINNEY, an individual,  
Plaintiff,

V.

14 APOLLO GROUP, INC.,  
15 UNIVERSITY OF PHOENIX, a  
16 Corporation, MECHELLE  
17 BONILLA, an Enrollment Manager  
18 at UNIVERSITY OF PHOENIX,  
19 KYAN FLYNN, Director of  
Enrollment at UNIVERSITY OF  
PHOENIX, APRIL ALCORN, an  
Employees Relations Consultant at  
UNIVERSITY OF PHOENIX,  
CARLYN LINDSTEN, Associate  
Director of Enrollment at  
UNIVERSITY OF PHOENIX

## Defendants

CASE NO. 07-CV-2373 WQH CAB

**UNIVERSITY OF PHOENIX, INC.'S  
NOTICE OF MOTION AND  
MOTION TO DISMISS  
PLAINTIFF'S COMPLAINT, OR, IN  
THE ALTERNATIVE, MOTION  
FOR MORE DEFINITE  
STATEMENT**

[FRCP 12(b)(6); 12(e).]

**NO ORAL ARGUMENT, UNLESS  
REQUESTED BY THE COURT**

Date: October 20, 2008

Time: 11:00 AM

Courtroom: 4

Judge: Hon. William Q. Hayes

DATE OF FILING: December 19, 2007

23 TO PLAINTIFF AND HIS ATTORNEY(S) OF RECORD:

24 PLEASE TAKE NOTICE that on October 20, 2008 at 11:00 a.m., or as soon  
25 thereafter as counsel may be heard by the above entitled Court, located at 940 Front  
26 Street, San Diego, California 92101, Courtroom 4, defendant University of  
27 Phoenix, Inc. (“UOP”) will and hereby does move the Court pursuant to Rules  
28 12(b)6 and 12(e) of the Federal Rules of Civil Procedure (“FRCP”) to dismiss

9060313

**USDC-SOUTHERN DISTRICT CALIFORNIA  
CASE NO. 07-CV-2373 WQH CAB**

1 plaintiff's complaint with prejudice or in the alternative require a more definite  
 2 statement.

3 This motion is brought on the following grounds: (1) The Complaint fails to  
 4 state any claims upon which relief may be granted; (2) The Complaint fails to set  
 5 forth a short and plain statement of the claim showing that the plaintiff is entitled to  
 6 relief; and (3) The Complaint is so vague and ambiguous so as to require plaintiff to  
 7 provide a more definite statement.

8 This motion is based on this notice of motion and motion, the memorandum  
 9 of points and authorities, the declaration of Nathan W. Hicks filed herewith, and  
 10 supporting exhibit thereto, the Court's files in this matter, all supporting documents,  
 11 evidence and oral argument before this Court at the time of the hearing, and any  
 12 other matter properly before the Court.

13 Date: August 29, 2008

14 SNELL & WILMER L.L.P.

15 By: s/Nathan Hicks  
 16 Christy Joseph  
 17 Nathan W. Hicks  
 18 Attorneys for Defendant The  
 19 University of Phoenix, Inc.

Snell & Wilmer  
 L.L.P.  
 LAW OFFICES  
 600 Anton Boulevard, Suite 1400  
 Costa Mesa, California 92626-7689  
 (714) 427-7000

**PROOF OF SERVICE****McKinney v. Apollo Group, Inc., et al.  
USDC, Southern – Case No. 07-CV-2373**

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400, Costa Mesa, California 92626-7689.

On September 2, 2008, I served, in the manner indicated below, the foregoing document described as **UNIVERSITY OF PHOENIX, INC.'S NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S COMPLAINT, OR, IN THE ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT** on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, at Costa Mesa, addressed as follows:

Chad McKinney 6266 Madeline Street, Apt. #61 San Diego, CA 92115	Plaintiff, Pro Se Tel: (619) 634-3566  TRACKING # 797075185540
United States District Court Attention: Hon. Judge William Q. Hayes Courtroom 4 940 Front Street, Room 4290 San Diego, CA 92101-8900	Courtesy Copy Tel: (619) 557-5600  TRACKING # 796076073808

I am employed in the office of a member of the bar of this court at whose direction the service was made.

BY FEDERAL EXPRESS: I caused such envelopes to be delivered by air courier, with next day service, to the offices of the addressees. (C.C.P. § 1013(c)(d)).

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on September 2, 2008, at Costa Mesa, California.



Anh Dufour